

IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA

CASE NO: 2022-CA-016617
DIVISION: 04

MARY ELLEN CHATLOS,

Plaintiff,

v.

GOLI NUTRITION INC., a foreign corporation

Defendant.

CLASS REPRESENTATION

SUMMONS

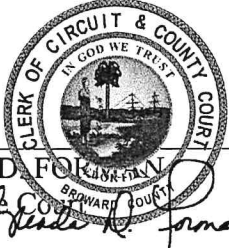

THE STATE OF FLORIDA:
To Each Sheriff of the State:

YOU ARE COMMANDED to serve this Summons and a copy of the complaint or petition
in this action on defendant:

GOLI NUTRITION INC.
Registered Agent: Agents and Corporations, Inc.
1201 Orange Street, Suite 600 One Commerce Center
Wilmington, DE, 19801

Each defendant is required to serve written defenses to the complaint or petition on Alec H. Schultz and Carly A. Kligler, HILGERS GRABEN, PLLC, Plaintiff's attorney, whose address is 1221 Brickell Avenue, Suite 900, Miami, Florida 33131, Telephone: 305-630-8304, within twenty (20) days after service of this summons on that defendant, exclusive of the day of service, and to file the original of the defenses with the clerk of this court either before service on plaintiff's attorney or immediately thereafter. If a defendant fails to do so, a default will be entered against that defendant for the relief demanded in the complaint of petition.

DATED on NOV 17 2022

By: 
BRENDA D. FORMAN
Clerk of the Court

BRENDA D. FORMAN

Filing # 160903460 E-Filed 11/08/2022 05:37:12 PM

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CLASS REPRESENTATION

Plaintiff Mary Ellen Chatlos brings this action against Goli Nutrition Inc. (“Goli”) and alleges as follows:

INTRODUCTION

1. Goli manufactures, markets, and distributes a health supplement called “Apple Cider Vinegar Gummies.” According to Goli, these gummies—and, in particular, the apple cider vinegar (“ACV”) ingredient—promote health benefits ranging from cellular energy production to heart health. In reality, however, Goli’s ACV gummies are nothing more than watered-down Vitamin B supplements with an inflated price tag attached, providing no health benefits whatsoever beyond what a consumer could obtain by purchasing a simple Vitamin B supplement.

2. There is no scientific evidence linking the purported health benefits of Goli’s ACV gummies to ACV itself. Rather, those benefits are instead associated with Vitamins B9 and B12. But Goli, as the self-proclaimed top apple cider vinegar product on the market,¹ advertises its ACV

¹ *Goli Nutrition Named to America’s Fastest Growing Online Shops 2022 List*, PR NEWswire (Aug. 10, 2022, 9:03 AM), <https://www.prnewswire.com/news-releases/goli-nutrition-named-to-americas-fastest-growing-online-shops-2022-list-301603003.html>.

gummies as a “health elixir” because of the inclusion of ACV in the product, and then more than triples the price of more effective, yet less exotic, Vitamin B supplements.

3. Because of Goli’s unfair and deceptive marketing, Plaintiff and thousands of consumers have been duped into buying Goli’s overpriced product for potential health benefits they could receive from other products on the market for a fraction of the cost. Plaintiff and consumers statewide are entitled to recover damages from Goli for its deceptive and misleading tactics.

PARTIES

4. Plaintiff Mary Ellen Chatlos is an individual who is a resident and citizen of Florida. Plaintiff has made multiple purchases of ACV supplements from Goli.

5. Defendant Goli is, upon information and belief, a Delaware corporation with its principal place of business in California. Goli manufactures, markets, and sells its products directly to consumers nationwide, including in Florida, through brick-and-mortar retailers, its own website, and third-party websites.

JURISDICTION AND VENUE

6. Plaintiff brings his claims under Fla. Stat. § 501.211 and Florida common law.

7. This Court has personal jurisdiction over Goli because Goli has purposefully established significant contacts with Florida through its continuous and pervasive marketing and distribution of Goli products in the state, and Plaintiff’s cause of action is related to Goli’s purposeful contacts with Florida. *See* Fla. Stat. § 48.193.

8. Venue is proper in this Court because Goli conducted business in this County, and Plaintiff made purchases of Goli’s ACV supplement from this County.

9. All conditions precedent to the bringing of this action have occurred, or Goli has waived them.

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

10. Goli began marketing the “world’s first apple cider vinegar gummies”² in 2019. The ACV gummies are sold in 60-count bottles that can be bought individually or in multi-bottle packs through Goli’s website and third-party retailers.³ Goli’s ACV gummies are one of the most prominent ACV products in a growing market that is currently nearing \$1 billion.⁴

11. On its website, Goli explains what ACV is and how it is made: “Fresh, real apples are crushed and juiced to produce what is called a cider. The apple cider undergoes a unique fermentation process to create Apple Cider Vinegar. Raw, unfiltered Apple Cider Vinegar was used to develop the top quality Apple Cider Vinegar Powder found in Goli ACV Gummies.”⁵

12. The presence of ACV is Goli’s key selling point. In a 2019 press release, Goli bragged that its ACV gummies “contain[] the benefits of ACV, which assist with” digestion, complexion, weight reduction, body detoxification, heart health, and energy levels.⁶ Goli displays the title for this product on the front of its labels in large, bold text: “APPLE CIDER VINEGAR

² GOLI NUTRITION, <https://goli.com/pages/goli-acv> (last visited Nov. 8, 2022).

³ GOLI NUTRITION, <https://goli.com/pages/order> (last visited Nov. 8, 2022).

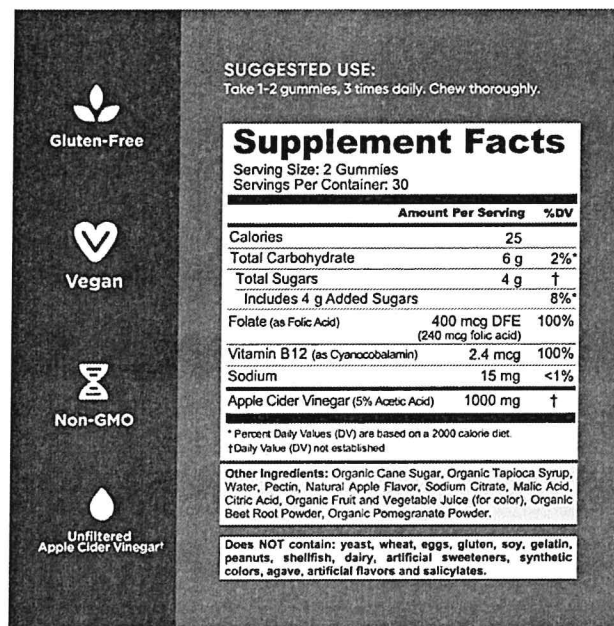
⁴ See Lisa Bower, *Apple Cider Vinegar: Skyrocketing Growth & Demand for Organic Products*, CLEARCUT (May 28, 2021) <https://clearcutanalytics.com/apple-cider-vinegar-skyrocketing-growth-demand-for-organic-products/>; *Demand for Global Apple Cider Vinegar Market Size & Share Worth USD 1800 Million by 2028*, GlobeNewswire (May 4, 2022, 11:33 AM) <https://www.globenewswire.com/news-release/2022/05/04/2435928/0/en/Demand-for-Global-Apple-Cider-Vinegar-Market-Size-Share-Worth-USD-1800-Million-by-2028-Exhibit-a-CAGR-of-8-5-Growth-Apple-Cider-Vinegar-Industry-Trends-Value-Analysis-Forecast-Repo.html#:~:text=As%20per%20the%20analysis%20shared,US%24%201800%20million%20by%202028.>

⁵ GOLI NUTRITION, <https://goli.com/pages/goli-acv> (last visited Nov. 8, 2022).

⁶ *Goli Nutrition Launches World’s First Apple Cider Vinegar Gummy*, PR NEWswire (Sept. 23, 2019, 9:00 AM) <https://www.prnewswire.com/news-releases/goli-nutrition-launches-worlds-first-apple-cider-vinegar-gummy-300922883.html>.

GUMMIES.”⁷ Further, Goli touts its ACV product on Amazon, one of its major third-party retailers, by proffering that “Apple Cider Vinegar has traditionally been used for digestion, gut health and appetite.”⁸

13. The bottle does not, however, highlight the secret sauce: Vitamins B9 and B12. In fact, a consumer picking a bottle off the shelf would not know about the presence of B9 and B12 without studying the “Supplement Facts” on the back of the bottle⁹:



14. Goli’s website implies that these vitamins play only a supporting role to ACV. Specifically, Goli states that its “patented formula is made with Vitamins B9 & B12 to *help* support” cellular energy production, heart health, added antioxidant support, healthy immune function, healthy nutrient metabolism, and, vaguely, “overall good health.”¹⁰ The Amazon page

⁷ *Goli Apple Cider Vinegar Gummy Vitamins*, AMAZON <https://www.amazon.com/Goli-Nutrition-Worlds-Vinegar-Vitamins/dp/B07R8GD47V> (last visited Nov. 8, 2022).

⁸ *Id.*

⁹ *Id.*

¹⁰ GOLI NUTRITION, <https://goli.com/pages/goli-acv> (last visited Nov. 8, 2022) (emphasis added).

for Goli's ACV gummies likewise advertises that the presence of Vitamins B9 and B12 "help support" various purported health benefits. Even then, to a reasonable consumer, the clear take-away from Goli's marketing is that ACV plays the primary role in promoting the alleged health benefits of Goli's ACV gummies. This conclusion is supported by the fact that Vitamin B supplements are readily available in the market on a standalone basis, without the inclusion of any ACV and for a far cheaper price.

15. There is *no* reliable scientific evidence linking the use of ACV to the health benefits that Goli touts. Rather, those purported health benefits are in truth scientifically attributable to Vitamins B9 and B12, which can be purchased for a fraction of the price. For example, a large study involving over 80,000 subjects published in the Journal of the American Heart Association concluded that the use of Folic Acid—*i.e.*, Vitamin B9—results in a lower risk of stroke and cardiovascular disease.¹¹ Another study linked Vitamin B to cellular function and catabolic and anabolic enzymatic reactions.¹² The study likewise stated that a "small sub-set of B vitamins (folate, vitamin B12 and, to a lesser extent vitamin B6) [] play the most obvious roles in homocysteine metabolism."¹³ Goli provides no corresponding study of ACV to support its position that "Apple Cider Vinegar has traditionally been used for digestion, gut health and appetite," as indeed none exists.

16. Goli does not explain this in its online advertisements, let alone on the labels to its gummy bottles. Instead, through false and misleading statements, Goli uses the concocted health

¹¹ Yanping Li et al., *Folic Acid Supplementation and the Risk of Cardiovascular Diseases: A Meta-Analysis of Randomized Controlled Trials*, J. AM. HEART ASSOC. Vol. 5, No. 8 (Aug. 15, 2016), <https://www.ahajournals.org/doi/full/10.1161/JAHA.116.003768>.

¹² David O. Kennedy, *B Vitamins and the Brain: Mechanisms, Dose and Efficacy – A Review*, NAT'L LIBRARY OF MED. (Jan. 28, 2016), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4772032/#:~:text=The%20B%2Dvitamins%20comprise%20a,catabolic%20and%20anabolic%20enzymatic%20reactions.>

¹³ *Id.*

benefits of ACV to hoodwink customers into paying grossly inflated prices. A 60-count bottle of Goli's ACV gummies costs \$18.98 on Amazon. This equates to about 32 cents per gummy, each of which contains 200 micrograms of Vitamin B9 and 1.2 micrograms of Vitamin B12. By comparison, a consumer can purchase a 140-count bottle of Nature Made's "Super B" supplement for \$13.99.¹⁴ In stark contrast to Goli's ACV gummies, Nature Made's Vitamin B supplement costs about 10 cents per pill, each of which contains far more vitamins: 665 micrograms of Vitamin B9 and 15 micrograms of Vitamin B12.

17. In other words, because of Goli's deceptive marketing, consumers of Goli's ACV gummies are effectively paying at least three times more for an inferior Vitamin B supplement, while receiving no cognizable health benefits from the ACV itself. Reasonable consumers should not have to parse medical journals to assess whether a company is deceiving them. As such, Goli consumers are entitled to recover the difference in cost between Goli's ACV gummies and standard Vitamin B supplements.

CLASS ACTION ALLEGATIONS

18. Plaintiff brings this lawsuit as a class action pursuant to Fla. R. Civ. P. 1.220.

19. Plaintiff seeks certification of the following class: all Florida residents who, at any time between October 1, 2019, to the present, purchased Goli's ACV products from Goli or from an authorized Goli retailer (the "Class").

20. Plaintiff reserves the right to amend the Class definition and/or add sub-class definitions as discovery proceeds and to conform to the evidence.

¹⁴ *Super B Complex with Vitamin C and Folic Acid Tablets*, WALGREENS, https://www.walgreens.com/store/c/nature-made-super-b-complex-with-vitamin-c-and-folic-acid-tablets/ID=prod6091533-product?ext=googlePerformance+Max+Retail+Campaign_pla_online&gclid=Cj0KCQjwgO2XBhCaARIsANrW2X0NGju9IeWk1r-kFZo47dy--TA6VdWnUmuaMrtgn24M8ao8-5u6wO4aAqcTEALw_wcB (last visited Nov. 8, 2022).

21. Excluded from the Class are Goli; any entity in which Goli has a controlling interest or which has a controlling interest in Goli; Goli's legal representatives, assignees, and successors; and the judge assigned to this case and any members of the judge's staff or immediate family.

22. On information and belief, there are thousands of consumers who have purchased Goli's ACV gummies directly from Goli or through an authorized Goli retailer within the State of Florida. The members of the Class are so numerous that joinder of all members is impracticable. Further, the disposition of the claims of the Class in a single action will provide substantial benefits to all parties and the Court.

23. There are numerous questions of law and fact common to Plaintiff and the Class. These questions include, but are not limited to:

- a. Whether Goli systematically engaged in an unfair and deceptive marketing scheme regarding its ACV gummies;
- b. Whether Goli's unfair and deceptive marketing scheme was likely to deceive consumers acting reasonably under the circumstances;
- c. Whether Goli knowingly accepted a benefit from Plaintiff and the Class;
- d. Whether Goli knew that it accepted a benefit from Plaintiff and the Class that bore no relationship to the purported health benefits of ACV;
- e. Whether it would be unjust under the circumstances for Goli to retain the benefit of the revenue they received from Plaintiff and the Class; and
- f. Whether any of Goli's conduct caused injury to Plaintiff and the Class.

24. Plaintiff's claims are typical of the claims of the Class. Plaintiff's claims, like the claims of the Class, arise out of the same common course of conduct by Goli and are based on the same legal and remedial theories under Florida law.

25. Plaintiff will fairly and adequately protect the interests of the Class. Plaintiff has retained competent and capable attorneys who have significant experience in complex and class action litigation. Plaintiff and her counsel are committed to prosecuting this action vigorously on behalf of the Class and have the financial resources to do so. Neither Plaintiff nor her counsel have interests that are contrary to or conflicting with those of the proposed Class.

26. Plaintiff's cause of action against Goli may be maintained as a class action under Fla. R. Civ. P. 1.220(b)(1) because the prosecution of separate claims by individual Class members would be dispositive of the interests of other Class members who are not parties to the adjudication and would create a risk of inconsistent or varying adjudications for Class members, which would establish incompatible standards of conduct for Goli.

27. Alternatively, Plaintiff's cause of action against Goli may be maintained as a class action under Fla. R. Civ. P. 1.220(b)(3). Goli engaged in a common course of unfair, deceptive, and misleading acts targeted at Plaintiff and the Class that predominate over any individual issues. Absent a class action, the Class members will likely find the cost of litigation prohibitive. Further, most Class members are unaware that Goli's conduct is illegal and that they have been financially victimized. Class treatment is therefore superior to multiple individual suits or piecemeal litigation because it conserves judicial resources, promotes consistency and efficiency of adjudication, provides a forum for small claimants, and deters illegal activities.

COUNT I

FLORIDA DECEPTIVE AND UNFAIR TRADE PRACTICES ACT

28. Plaintiff re-alleges paragraphs 1-27 as if fully set forth herein and further alleges the following.

29. Count I is brought pursuant to the Florida Deceptive and Unfair Trade Practices Act (“FDUTPA”). Plaintiff brings Count I individually and for the Class defined above.

30. At all material times, Plaintiff and all of the Class were consumers within the meaning of Fla. Stat. § 501.203 and are entitled to relief under FDUTPA in accordance with Fla. Stat. § 501.211.

31. At all material times, Goli conducted trade and commerce within the meaning of Fla. Stat. § 501.203.

32. Goli has engaged in unlawful schemes and courses of conduct through one or more of the unfair and deceptive acts and practices alleged above, which were likely to deceive a consumer acting reasonably in the same circumstances.

33. The misrepresentations and deceptions, and concealment and omissions of material facts alleged in the preceding paragraphs, occurred in connection with Goli’s trade and commerce in Florida.

34. Goli’s unfair and deceptive acts and practices violate Fla. Stat. § 501.204.

35. Goli’s FDUTPA violations aggrieved Plaintiff, allowing her to seek declaratory relief on behalf of the Class under Fla. Stat. § 501.211(1).

36. Further, Plaintiff and the Class have suffered losses because of Goli’s unfair and deceptive acts, and thus Plaintiff seeks actual damages pursuant to Fla. Stat. § 501.211(2), on behalf of herself and the Class, in an amount to be proved at trial.

37. Plaintiff also seeks on behalf of herself and the Class, her reasonable attorneys’ fees and costs pursuant to Fla. Stat. § 501.2105.

COUNT II

UNJUST ENRICHMENT

38. Plaintiff re-alleges paragraphs 1-27 as if fully set forth herein and further alleges the following.

39. Count II is an unjust enrichment claim brought under Florida law. Plaintiff brings Count II individually and for the Class.

40. Plaintiff and the Class conferred a benefit on Goli by purchasing its ACV gummies at inflated prices.

41. Goli voluntarily accepted and retained the benefit that Plaintiff and the Class conferred on it, with full knowledge that its acceptance and retention of those benefits bore virtually no relationship to Goli's advertisement of the purported benefits of ACV versus standard Vitamin B supplements.

42. Under the circumstances of Goli's deceptive, unfair, and fraudulent acts described above, it would be inequitable to allow Goli to retain this benefit without paying the value of the benefit to Plaintiff and the Class.

PRAYER FOR RELIEF

Plaintiff and the Class respectfully request the following relief:

- a. Certification of the Class;
- b. A monetary judgment against Goli for actual damages suffered by Plaintiff and the Class;
- c. An injunction pursuant to FDUTPA prohibiting Goli from continuing its deceptive marketing;

- d. The costs of this action, including reasonable attorney's fees and pre-judgment and post-judgment interest as provided by law; and
- e. Such other relief as the Court deems just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all claims so triable.

Date: November 8, 2022.

Respectfully submitted,

s/ Alec H. Schultz

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Class*